

REMARKS/ARGUMENTS

Claims 1-31 remain pending. No claims have been added, amended, or cancelled. Reexamination and reconsideration of the pending claims are respectfully requested.

CLAIM REJECTIONS UNDER 35 U.S.C. §102 AND §103

Claims 1-12, 15, and 17-31 currently stand rejected under 35 U.S.C. §102(e) as allegedly being anticipated by U.S. Patent Publication No. 2005/0270491 in the name of Dai et al. (hereinafter "the Dai et al. publication"). Claims 13, 14, and 16 were rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over the Dai et al. publication. Such a rejection is traversed as follows:

First, Applicants note that each of claims 1-31, as now pending in this application, are entitled to the priority of parent provisional application 60/431,622 (hereinafter "the '622 Liang provisional"), the parent provisional from which the subject application claims priority. With the amendment of June 14, 2007 in the subject application, Applicants provided a copy of the Liang '622 provisional. Applicants are attaching herewith a redline showing the changes made between the Liang '622 provisional and the subject application as filed, showing that no changes were made in the wording of the claims. Support for independent claim 1 may be found, for example, in paragraph 9 on page 3 of the '622 Liang provisional. More specifically addressing each of the three method steps of independent claim 1, support for measuring an optical error of the eye may be found in Fig. 2 in the associated text on pages 8 and 9 of the Liang '622 provisional. Support for the calculating step of independent claim 1 may be found throughout the subject application, including in paragraphs 50-52 on page 12. Formatting of a plan for refractive correction can be understood with reference to paragraphs 28 - 32, and to the descriptions of Fig. 7 in paragraphs 53-57, and in paragraph 59. The same sections similarly support independent system claims 21 and 28, so that the claims now being examined are entitled to a filing date of December 6, 2002 (the parent '622 Liang provisional filing date.)

Regarding the Dai et al. publication, Applicants note that there is an error on the cover of the Dai et al. publication regarding the claim of priority of that case. Specifically, along

with several applications filed in 2004 and 2003, the cover of the Dai et al. publication asserts that that application claims priority from "provisional application number 60/431,643, filed on December 5, 2002." [See Dai et al. publication cover]. A copy of provisional application 60/431,643 is also attached hereto. Applicants note that the '643 application was indeed filed on December 5, 2002, but is directed to a "System and Method for Software Download to Wireless Communication Device." The '643 provisional application does not have any inventors in common with the Dai et al. publication, and the disclosure of the '643 provisional application does not even remotely suggest any element of the currently-pending claims.

Regarding the actual claim of priority of the Dai et al. publication, as indicated in paragraph 1, in the first column of page 1 of the Dai et al. publication, that application actually claims priority from "60/431,634 filed December 6, 2002." [Dai et al. publication, paragraph 1].

In an amendment filed on June 14, 2007 for the subject application, Applicants incorrectly stated that "while Dai claims priority from a variety of regular and provisional US filings, all were filed after the filing date of the '622 Liang application, the parent provisional from which the subject application claims priority." Applicants note this is not technically correct, as the Dai et al. publication does claim priority from the '634 provisional application which was filed on December 6, 2002 (the same day the '622 Liang application was filed). Nonetheless, as the subject application is entitled the benefit of the '622 Liang provisional, and as the '622 Liang provisional was also filed on December 6, 2002, the Dai et al. publication is *not* prior art against the subject application. Moreover, even if the U.S. Patent Office were to maintain (incorrectly) that the Dai et al. publication does claim priority from the '643 provisional, Applicants note that that document does not disclose *any* of the elements of the claims now at issue, so that the record of the subject application is devoid of any valid basis for rejection of the claims.

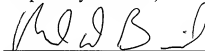
As no prior art document has been identified in the record as disclosing any element of any of the pending claims, Applicants respectfully request that all rejections be removed, and that all claims be allowed.

CONCLUSION

In view of the foregoing, Applicants believe all claims now pending in this Application are in condition for allowance. The issuance of a formal Notice of Allowance at an early date is respectfully requested.

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 650-326-2400.

Respectfully submitted,



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